

# **EXHIBIT A**

**DECLARATION OF ROBERT ROSENTHAL**

I, Robert Rosenthal, declare as follows:

1. I am an attorney licensed to practice in all of the courts in Nevada and I represent Defendant M.J. Dean Construction, Inc. in this matter.

2. On July 15, 2021, a little over two weeks after Plaintiff's new attorneys substituted in, I deposed Parnell Colvin ("Colvin").

3. In the approximate 10-day period before discovery was cut off on August 9, 2021, Plaintiff's attorney proceeded to depose the following MJ Dean management personnel: Eric Gutierrez (July 29, 2021), John Thomason (July 29, 2021), and Paul Rosequist (August 6, 2021). During each of these depositions, it became increasingly apparent to me that Plaintiff's attorney seemed to be far less concerned about Gutierrez allegedly calling Colvin the N-word once than he was about racist graffiti and pro-Trump remarks in the workplace.

4. In light of Plaintiff's last-minute decision to change his focus to racist graffiti and pro-Trump comments in the workplace, and because discovery was set to close in a matter of days, Defendant elected to rebut Plaintiff's new allegations via providing discrete impeachment testimony from three previously undisclosed witnesses, Tony Logan, Julian Jeffers, and Antonio Jalomo-Rodriguez, in compliance with Federal Rules of Civil Procedure, Rule 26(a)(1)(A)(i). The only alternative would have been for Defendant to disclose these new witnesses on the eve of the discovery deadline, which surely would have surely resulted in Plaintiff moving to strike the disclosure and/or moving to re-open discovery, which in turn, would have wasted the parties' and the Court's valuable time and resources.


5. These declarations were attached for the sole purpose of impeaching Plaintiff's testimony that, (1) nobody had witnessed his argument with Gutierrez on November 14, 2019; (2)

he complained to Julian and Tony about racist graffiti; and (3) racist graffiti and comments in the workplace were severe and pervasive.

6. Attached as Exhibit B is a true and correct copy of an email chain between Plaintiff's attorney and Defendant's counsel, dated October 19, 2021, concerning the subject declarations.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and if called upon as a witness I could and would competently testify thereto.

Dated: November 15, 2021



Robert Rosenthal